HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A. No. 483 of 2005

Appellant		National Insurance Company Ltd. Through Branch Manager, Bilaspur Branch, Taha Complex, Vyapar Vihar Road, Priyadarshni Nagar,Bilaspur.
	Versus	
Respondents	1.	Smt. Jayanti Lal aged 33 years, Wd/o Late Dr. Anil Lal
	2.	Ankit Kumar Lal, aged 10 years, S/o Late Dr. Ankit Kumar Lal, aged 10 years, S/o Late Dr. Anil Lal, through mother Smt. Jayanti Lal.
	3.	Ku. Akansha Lal, age 8 years, S/o Late Dr.Anil Lal, minor, through mother Smt. Jayanti Lal, all R/o Shridha Bhawan, Magarpara Road, Bilaspur, Tahsil and District-Bilaspur.
	4.	Gorelal S/o Banalo Yadav, aged 28 years, R/o Village- Phulwari, Lormi, Present R/o Quarter No. 2/18, Rajkishore Nagar, Bilaspur, Tahsil & District- Bilaspur (C.G.).
	5.	Anand Jayaswal S/o Radhe Shyam Jayaswa, aged 40 years, R/o Masanganj, Bilaspur, Tahsil & District- Bilaspur (C.G.).
	6.	Dr. S. K. Lal S/o S. B. Lal, aged 50 years, R/o Magarpara Chowk, Bilaspur, Tahsil & District- Bilaspur
	7.	United India Insurance Company Ltd, through Branch Manager, Branch Office Rajendra Nagar Chowk, Bilaspur, Tahsil and District-Bilaspur (C.G.).

DB: Hon'ble Shri Justice S. R. Nayak, C.J.
& Hon'ble Shri Justice Satish K. Agnihotri, J.

Mr. Sri Kumar Agarwal, Senior Advocate with Shri Anand Kumar Gupta, Advocate.

ORAL ORDER

(28th November 2005)

1. The appellant Insurance Company is found to be guilty of actionable negligence in causing the accident resulting in death of three persons. 25% of the liability has been fastened on the driver

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of the truck involved in the accident and insured by the appellant Insurance Company. Shri Agarwal, standing counsel for the appellant/Insurance Company would contend that there was absolutely no fault on the part of the driver of the truck in causing accident because the truck was not in motion at the material point of time, and on the other hand, it was admittedly parked. This argument is required to be noticed only to be rejected. It has come in evidence that the truck insured by the appellant-company was parked on the road without light. The accident took place during dead of night. Therefore, apparently the driver of the truck involved in the accident was guilty of the actionable negligence and in that view of the matter, fastening a part of the liability on the owner and insurer of the truck cannot be faulted with. There is absolutely no good ground for us to admit this appeal. The appeal is, therefore, dismissed at the stage of permission itself.

Sd/-
Chief Justice

Sd/-
SATISH K. ANGNIHOTRI
Judge

Thakur